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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,353	12/09/1999	ARTHUR G. ANDERSON	3569	8754

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EXAMINER

MEI, XU

ART UNIT PAPER NUMBER

2644

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/458,353

Applicant(s)

ANDERSON ET AL.

Examiner

Xu Mei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-51 and 54-74 is/are pending in the application.
- 4a) Of the above claim(s) 8-51,55,56 and 67-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,57-66,73 and 74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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1. This communication is responsive to the applicant's amendment dated 06/27/2005.

2. Applicant's election without traverse of Specie I, claims 1-7, 57-66, 73 and 74 in the reply filed on 06/27/2005 is acknowledged.

Claims 8-51, 55-56 and 67-72 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 06/27/2005. (Note: Claims 52-54 has been cancelled)

This application contains claims 8-56 and 67-72 drawn to an invention nonelected in Paper No. 06/27/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

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would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 and 57-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al (US 6,201,875) in view of Zurek (US 5,764,875).

Regarding claims 1-2, 60 and 63, Davis discloses an apparatus comprising: a hearing aid device having a memory (Fig. 6 show the hearing aid having a plurality of memory) for storing a user-adjustable preference setting (hearing aid fitting parameters), the memory being configured to allow the user-adjustable preference setting to be repeatedly modified by the user and stored during use of the hearing aid (col. 6, lines 36-59); and a host adapter (GUI interface of a computer adapted to connected/coupled to the hearing aid series interface circuit) selectively coupled to the hearing aid and having a performance parameter (hearing aid loudness parameter, for example), wherein the host adapter is capable of accessing the memory in order to read the user-adjustable preference setting (the host computer is capable accessing the hearing aid memory to read and adjust the fitting parameter stored in the hearing aid). The hearing aid fitting system of Davis is also performing hearing assessment of different individual (i.e., second user as

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claimed) since the host adapter or computer clearly could generate different fitting parameters for different individual. And multiple performing or fitting parameters is stored and loaded into the hearing aid for instantaneous comparison of different fittings (col. 5, line 59-col. 6, line 6) and various information regarding the user or users is also being stored in the hearing aid as shown in Fig. 5.

What Davis does not specifically show is the hearing aid is a headset as claimed. However, hearing aid being constructed as a headset is old and well known in the art. Zurek disclose a hearing aid headset (Fig. 1) with the advantages of more space for signal processing circuitry and controls on the headset hearing aid can be made larger and therefore easier to use than the typical ear-level hearing aid, for example (col. 2, lines 19-40). It would have been obvious to one of ordinary skilled in the art to modify the hearing aid apparatus of Davis by having a headset hearing aid as shown by Zurek with the advantage more space for signal processing circuitry and controls on the headset hearing aid can be made larger and therefore easier to use than the typical ear-level hearing aid, for example.

Regarding claim 3, it would have been obvious to one of ordinary skilled in the art to implemented the memory or other

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circuitry of the hearing aid anywhere within the headset structures as shown by Zurek.

Regarding claim 4, it's old and well known in the art that memory structure for electronic equipment is mounted in a quick connect/disconnect plug in fashion for the purpose of easy replacement. It would have been obvious to one of ordinary skilled in the art to implement the hearing aid memory of Davis in a quick connect/disconnect fashion for the advantage of easy parts replacement.

For what's called for in claims 5 and 7, see col. 5, line 40-col. 6, line 6.

For what's called for in claims 6, 61-62 and 64-66, see Figs. 1-2 and 4. The different tone at different individual frequencies are shown for dynamic volume or loudness control to fit different individual. The different levels as claimed are met by the different frequency curves at various points as shown.

5. Claims 57-59 are similar to claims 60-62 except for being couched in method terminology; such methods would be inherent when the structure is shown in the references.

6. Claims 73-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al (US 6,201,875) in view of Zurek

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(US 5,764,875) as discussed in claim 1 above, and further in view of Martin et al (US-5,210,803).

Regarding claims 73 and 74, the combinations of Davis and Zurek as discussed including all the limitation with the exception of having particular user login for retrieving specific user headset preference settings. Martin discloses a hearing aid device including ID means for allocated to the hearing aid for identification purpose thus preventing hearing aid being wrongly used by a different individual. Davis also discloses the hearing aid fitting system including individual information being stored in the host and audiogram for the hearing aid user (see Fig. 5). It would have been obvious to one of ordinary skilled in the art to modify the improved headset hearing aid device as taught by the combinations of Davis and Zurek by having ID means (as shown by Martin or user ID login or any other type ID means) for the headset hearing aid in order to prevent the headset hearing aid being wrongly used by different individual.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bye et al, Taenzer et al, Grugel are made of record here as pertinent art to the claimed invention.

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The cited references disclose different hearing aid devices.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xu Mei whose telephone number is 571-272-7523. The examiner can normally be reached on Monday-Friday (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Xu Mei  
Primary Examiner  
Art Unit 2644  
09/14/2005